



# United States Department of the Interior

OFFICE OF THE SECRETARY

Washington, D.C. 20240

MAY 11 2007

## MEMORANDUM

TO: Bureau/Office Equal Opportunity Officers  
Human Resources Officers  
Bureau/Office Competitive Sourcing Leads

FROM: Paul Hoffman *Paul Hoffman*  
Deputy Assistant Secretary for Performance, Accountability and  
Human Resources

SUBJECT: Competitive Sourcing and Persons with Disabilities

As the bureaus and offices progress with their competitive sourcing plans for the Department, accurately and consistently identifying what work will be competed is fundamental to successful outcomes. While conducting competitive sourcing competitions, bureaus and offices need to consider how to address the work of persons with disabilities. The Office of Management and Budget has left the decision of whether to include or exclude the work of persons with disabilities to each Department.

Recognizing the laws and regulations that have been adopted to help persons with disabilities enter the Federal workforce, the Department will code work performed by persons with disabilities in the appropriate Function Codes as "Commercial, Reason Code A" on the Federal Activities Inventory Reform (FAIR) Act and will exclude from its competitive sourcing competitions the work of employees with disabilities meeting either of the following criteria:

- Persons who are currently on a Schedule A appointment for individuals with severe physical disabilities, psychological disabilities, or individuals with mental retardation (5 CFR 213.3102 (u)); or
- Veterans with a compensable service connected disability of 30% or greater who are currently on a temporary or term appointment under 5 CFR 316.402 (b) (4) or 5 CFR 316.302 (b) (4).

This guidance concerns only FAIR Act coding and the work that will be excluded from DOI competitive sourcing competitions. Other employee rights and responsibilities which are provided for by human resource management laws and regulations are not affected by this guidance.

Questions regarding an individual's standing with respect to these criteria may be addressed to your servicing HR Office. Questions regarding FAIR Act coding or

competitive sourcing competitions may be addressed to Ms. Donna Kalvels, Director, Center for Competitive Sourcing Excellence at (202) 219-0727 or [donna\\_kalvels@ios.doi.gov](mailto:donna_kalvels@ios.doi.gov).

Attached is a copy of the Office of Management and Budget memorandum "2005 Inventories of Commercial and Inherently Governmental Activities" which provides guidance to assist agencies in preparing inventories of their commercial and inherently governmental activities.

Attachment



EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

OFFICE OF FEDERAL  
PROCUREMENT POLICY

May 23, 2005

M-05-12

MEMORANDUM FOR HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM: David H. Safavian  
Administrator

SUBJECT: 2005 Inventories of Commercial and Inherently Governmental  
Activities

This memorandum provides guidance to assist agencies in preparing inventories of their commercial and inherently governmental activities. The Federal Activities Inventory Reform (FAIR) Act of 1998 (P.L. 105-270), requires federal agencies to prepare and submit to the Office of Management and Budget (OMB), by June 30th of each year, inventories of commercial activities performed by federal employees. OMB Circular A-76, Performance of Commercial Activities, further requires agencies to submit inventories of their inherently governmental activities to OMB.

By annually reviewing and revising complete workforce inventories, agencies are better able to understand the functions their workforce is performing and how those functions relate to the agency's mission. Agency managers should use this analysis to improve ways of managing their human capital resource distribution. Functions found to be inherently governmental or commercial, but not suitable for competition, may undergo reengineering efforts or management reviews. Functions deemed suitable for competition may be examined as potential candidates for competitive sourcing studies.

General Instructions

For the 2005 submission of commercial and inherently governmental inventories, agencies should use the standard spreadsheet template posted on OMB's website: [www.whitehouse.gov/omb/procurement/fair-index.html](http://www.whitehouse.gov/omb/procurement/fair-index.html). All other templates are incompatible with OMB's governmentwide database. Inventories prepared using other templates will be returned to the agency. Agencies must also conform to the US Postal city and state codes and limit themselves to only those function codes provided on the OMB approved list.

*Function Codes.* OMB maintains the only list of approved function codes. Agencies must use these codes, but have flexibility in defining the codes. Agencies may use the DOD function code definitions or create definitions that are tailored to fit their agency. For informational purposes, OMB intends to compile a comprehensive list of function code definitions which will be made available for the FY2006 inventory via the internet. Therefore,

fractions smaller than one-quarter unless a request for a waiver is granted by OMB. Agencies may aggregate like fractional FTE (those that share the same function code, status code, location, etc.) into a single reporting line.

*Point of Contact Information.* At the time of inventory submission, each agency shall provide OMB the website address on which they plan to post their inventory and the name and telephone number of the point of contact the agency would like have published in the *Federal Register*.

If there are alternate agency points of contact OMB may need to reach (i.e. bureaus representatives or agency database operators), please provide those as well. After review and consultation, OMB will publish this information in the *Federal Register* Notice of Availability. The primary agency point of contact will be notified by their examiner when their agency's inventory has been sent to the *Federal Register*.

By June 30, 2005 the FY 2005 inventories and commercial reason code A justifications shall be submitted via e-mail (hard copies and faxes are not required) to the appropriate OMB Resource Management Office (RMO) and to the Office of Federal Procurement Policy (OFPP) at FAIRAct2005@omb.eop.gov consistent with the guidance provided in OMB Circular A-76 ([www.whitehouse.gov/omb/circulars/index-procure.html](http://www.whitehouse.gov/omb/circulars/index-procure.html)) and the instructions provided in this memorandum.

#### Review and Consultation

The following agencies will be notified in writing when OMB has completed reviewing the content of the agency inventories: Department of Agriculture, Department of Commerce, Department of Defense, Department of Education, Department of Energy, Environmental Protection Agency, Department of Health and Human Services, Department of Homeland Security, Department of Housing and Urban Development, Department of the Interior, Department of Justice, Department of Labor, Department of State, Department of Transportation, Department of the Treasury, Veterans Affairs, Agency for International Development, Corps of Engineers, General Services Administration, National Aeronautics and Space Administration, National Science Foundation, Office of Personnel Management, Small Business Administration, Smithsonian Institution, and Social Security Administration.

Agencies not listed above may assume that OMB has completed reviewing the inventories 30 days after the electronic submission of their inventories to OMB unless otherwise directed by OMB. Not sooner than 45 days after the electronic submission of their inventories to OMB, unless otherwise directed, these agencies should release their inventories to the public, and place both inventories on the agency's website. In accordance with the FAIR Act, the challenge and appeals process begins when OMB publishes the Notice of Availability in the *Federal Register*. Therefore, it is important that inventories are posted in Excel format on agency websites within twenty-four hours of publishing in the *Federal Register*. There will be approximately three OMB submissions to the *Federal Register*.



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## OMB Guidance for use of Commercial Reason Code A Justifications

OMB Circular A-76 authorizes an agency's Competitive Sourcing Official to exempt a commercial function performed by government personnel from competition on the basis that the activity is not appropriate for private sector performance.

The Circular requires agencies to prepare justifications to support the designation of commercial reason code A functions. The OMB FY 2005 FAIR Act guidance requires agencies to submit these justifications along with their annual inventory. OMB intends to review these justifications beginning with those provided for functions listed as commercial reason code A for the first time in the 2005 inventory.

- ✱ The Circular does not specify what constitutes an acceptable reason for categorizing a function as reason code A. This document serves as guidance to help agencies structure their reason code A justifications so that agencies may achieve incremental improvements with each inventory submission.

### Justification Expectations

Justifications should reflect an appropriate and consistent application of criteria. They should contain enough information to enable a reasonable lay person to validate the function and reason code designations. The key elements of a complete justification are the following: a thorough definition of the function performed, including required skills and responsibilities, and a clear explanation of why it is necessary for the commercial function to be categorized as unsuitable for competition.

*Risk to the Agency.* Many agencies seek to exempt certain functions from competition on the grounds that the function is "core," as in "core to the agency's mission." As a general matter, a function should be considered core to an agency's operation only if -- and only to the extent that -- loss of in-house performance of the function would result in *substantial risk* to the agency's ability to accomplish its unique mission. Consider the following examples:

- Project managers and designated contracting officer representatives (commonly referred to as CORs or COTRs) may be considered core functions. An agency is likely to find that its operations would be at substantial risk if there were no in-house employees to perform these functions. However, these functions should be considered core *only* to the extent required to avoid substantial risk -- i.e., not every FTE in these categories is necessarily core since it would not put an agency's mission at risk to have a portion of

- Function routinely requires working with proprietary, sensitive, pre-decisional business information to develop various proposals for consideration by inherently governmental final agency decision makers.
- The FTE performing a commercial function are currently filled by individuals with disabilities.<sup>3</sup>
- FTEs currently performing function require distinctly multiple skill sets, so that the agency has the flexibility to rotate FTE between assignments as needed for maximum productivity potential.<sup>4</sup>
- Function is preformed by a student intern as a part of formalized program for federal recruitment.

#### Examples of Acceptable Complete Justifications for Commercial A Functions

The examples below illustrate what may constitute an acceptable complete justification. Agencies are allowed flexibility in defining function codes, so mock function codes have been substituted.

**DXXX Commercial** - This FTE establishes accountability policies and procedures, and provides independent, day-to-day oversight over accountability of Government security documents manufactured. The FTE draws on specialized knowledge of the Bureau's manufacturing and accountability systems and procedures to ensure that assets are safeguarded from waste, loss, misappropriation, etc. The systems accountant is responsible for conducting physical inventories that are reviewed by external auditors. This FTE is responsible for conducting unannounced inventories of various products. The FTE provides software application support, to include system enhancements, for all manufacturing and accountability systems users. The FTE coordinates system requirements for production and support division with various headquarter offices for proper tracking of the product through production process. Specialized knowledge and expertise in the Bureau's Product Accountability System is required to adequately perform these functions.

**CXXX Commercial** - The Bureau must have a sufficient number of trained and experienced staff to ensure the timely and accurate formulation, completion and review of all required financial reports. This requires employees with prerequisite accounting skills and specialized knowledge of the Bureau's revolving fund financing, as well as a thorough understanding of the Bureau mission. The need for these FTE's to provide essential technical information, advice, review and oversight increases directly with the increase in the degree of involvement of contractors in the Bureau's financial activities. Additionally, this function has historically provided an in-house cadre of talented financial management candidates for the Bureau's core functions.



<sup>3</sup> This justification must be applied on an individual FTE basis. In other words, it may not be applied to all FTE within a function simply because the majority of those FTE are currently filled by individuals with disabilities.

<sup>4</sup> It is expected that this justification will be used by a small number of agencies. An example of appropriate application would be for an FTE who primarily performs a physically or mentally straining activity, but it is periodically assigned desk work in part to provide relief from the strain and maintain sharpness in their primary duty.